

2011 DRAFTING REQUEST

Bill

Received: 03/16/2011

Received By: rkite

Wanted: As time permits

Companion to LRB:

For: Jeffrey Mursau (608) 266-3780

By/Representing: Tim Gary

May Contact:

Drafter: rkite

Subject: Nat. Res. - parks and forestry

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Mursau@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exemption for residences on certain MFL lands

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	rkite 04/13/2011	edt_sbasford 04/26/2011	mduchek 04/27/2011	_____	sbasford 04/27/2011	sbasford 10/17/2011	

FE Sent For:

<END>

→ At Intro.

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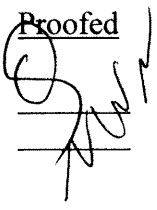
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/?	rkite	1 5BB 4/15					
FE Sent For:		1 4/26 jld					

<END>

Kite, Robin

From: Gary, Tim
Sent: Wednesday, March 16, 2011 11:17 AM
To: Kite, Robin
Subject: RE: Draft request

Robin,

Thank you and yes you have permission.

Sincerely,

Tim Gary

Wisconsin State Assembly
Office of **Representative Jeff Mursau**
36th Assembly District, Research Assistant
Committee on Natural Resources, Clerk
Committee on Forestry, Clerk
PO Box 8952
Madison, WI 53708-8952
(608) 266-3780
[Sign Up for E-Updates](#)

From: Kite, Robin
Sent: Wednesday, March 16, 2011 11:14 AM
To: Gary, Tim
Subject: RE: Draft request

Tim:

I will handle this request for your office. Do I have your permission to talk to DNR if I have questions about this request?

Thanks.
Robin

From: Gary, Tim
Sent: Wednesday, March 16, 2011 10:56 AM
To: Kite, Robin
Subject: Draft request

Robin,

Do you still handle MFL bill drafting? If so, can you please draft this up? If not, can you forward it to the proper bill drafter?

Thank you in advance,

Tim Gary

Wisconsin State Assembly
Office of **Representative Jeff Mursau**
36th Assembly District, Research Assistant

3/16/2011

Committee on Natural Resources, Clerk

Committee on Forestry, Clerk

PO Box 8952

Madison, WI 53708-8952

(608) 266-3780

[Sign Up for E-Updates](#)

DATE: February 16, 2011

TO: Paul DeLong, Administrator, Division of Forestry

FROM: Kathy Nelson, Forest Tax Program and Policy Chief

SUBJECT: Statutory proposal for an exempt withdrawal from MFL for the purposes of building a human residence

1. Problem/Issue

Owners of MFL lands who enrolled prior to October 11, 1997 were allowed to build a human residence on MFL lands. A statutory change effective October 11, 1997 prevented the building of human residences. This statutory change was made retroactive to all landowners who had not previously built a human residence. The change impacted a landowner's ability to carry out building plans that were available at the time of MFL enrollment.

2. Description of Legislation (Provide statute chapter number only – use plain English)

Amend Chapter 77.88(8) to allow an exempt withdrawal for landowners who enrolled land into MFL prior to October 11, 1997 for the purposes of building a human residence.

Suggested wording may include:

77.887., Wis. Stats. WITHDRAWAL EXEMPTION FOR CERTAIN PARCELS. Upon request of owners who enrolled lands under [insert statutory references for the various enrollment options] prior to October 11, 1997, the department shall order the withdrawal of no less than one acre of land and no more than the acreage of land established by municipal or county zoning ordinances as a building site. No withdrawal tax under s. 77.88(5) may be assessed against an owner or withdrawal fee under s. 77.88(5m).

3. Background

The Managed Forest Law (MFL) program was originally created in 1985 to allow buildings and cabins in which people could live while working and recreating on their property. There were no limitations on the size of the building, except that the building could not be a domicile, as evidenced by voting, personal income tax or driver's license records.

In 1997 an amendment changed the MFL statute to prohibit a human residence, whether it was a landowner's domicile or secondary home. Through administrative code the department set standards on the number of characteristics a building could have before it was a structure for human residence. MFL landowners enrolling lands after passage of the administrative code could not have a human residence. MFL landowners who were enrolled in MFL prior to the administrative code change were allowed to have and build new human residences until 2004.

DNR was challenged by a town assessor on the policy to allow new buildings on MFL lands entered prior to the statute change and on lands converted from FCL to MFL. DNR Legal and Forest Tax

Section staff re-evaluated the policy and determined that all new buildings on MFL lands would meet the new building criteria. Allowing new buildings to be built that exceeded the building requirements would circumvent the 1997 state statute (1997 Wisconsin Act 27) that prohibited lands with a "human residence."

MFL landowners who enrolled land from 1987 through 1997 had expectations that they could build a human residence on their MFL lands. The statutory change impacts a landowner's ability to carry out plans that were available to them at the time of MFL enrollment. A proposed statutory change would allow a landowner the ability to withdraw lands exempt from payment of withdrawal taxes and fees. The exempt withdrawal would be similar to retroactively allowing a landowner to keep a building site out of MFL enrollment.

4. Past Legislation (Please provide specific bill numbers. If none, leave blank)

None.

5. Land Use Impacts. What impact will the proposal have on land use?

Lands are likely to be withdrawn from MFL in order to build a human residence. This will allow for additional fragmentation of wild areas and increases in housing development, including fire, police and utility services to the residences.

6. Fiscal Estimate (Your best estimate – you do not need M&B review)

Each exempt withdrawal will cost the department \$30 to record with the register of deeds office. There are roughly 13,693 MFL entries enrolled from 1988 through 1997. If each MFL entry withdrew lands from MFL to build a human residence the recording fees would cost the department \$410,790 (13,693 entries x \$30 per withdrawal for recording fees = \$410,790).

Bureau Contact (Name & phone number)

Kathy Nelson, Forest Tax Program and Policy Chief, 608-266-3545

SIGNATURES:

Legal Services _____

Bureau Director _____

Division Administrator _____

3/23/2011

Phone conversation with Kathy Nelson at DNR:

I called Kathy for more background on the issue.

She explained that the intention is to allow owners of MFL that enrolled their land in the program (including those whose land was converted from the forest crop law program) before October 11, 1997 to withdraw a minimum of 1 acre from MFL for the purpose of building (or having?) a structure for a human residence. She suggests that the language create an exemption for these lands and to allow withdrawal of the amount of land necessary under local zoning laws for building a human residence. The withdrawn land would not be subject to withdrawal fees and taxes.

I asked Kathy what should happen if the remaining land does not then qualify for MFL. She is going to further consider this question and call me back.

Kathy Nelson called back on 3/31/11

Draft should provide that if an owner withdraws land for a residence, MFL withdrawal taxes and fees are waived regardless if remainder of the land continues to qualify as MFL.

If remainder does not qualify, then remainder must also be withdrawn and the remainder is then subject to withdrawal fees and taxes although the land withdrawn to build the residence is not subject to those fees and taxes.

She directed me to the language in current law under s. 77.88 (8) (b).



State of Wisconsin
2011 - 2012 LEGISLATURE



Rm
run

LRB-1676/2

RNK:.....

SBB
+ JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2011 BILL

In
4/13

D-Note

X

1

AN ACT ^{Gen} relating to: exempting certain parcels of land withdrawn from the
2 managed forest land program from the assessment of withdrawal taxes and
3 fees.

Analysis by the Legislative Reference Bureau

- Under the Managed Forest Land (MFL) Program, the owner of land that meets certain requirements as to size and the amount of timber on the land may apply to have the Department of Natural Resources (DNR) designate the land as MFL. The owner of such land then makes an annual payment that is lower than, and in lieu of, the property taxes that normally would be payable on the land. In exchange, the owner must comply with certain forestry practices and may keep a specific area closed to public access; the remainder of the land must be kept open for recreational activities consisting of hunting, fishing, hiking, sight-seeing, and cross-country skiing. Land is not eligible for designation as MFL if more than 20 percent of the land is unsuitable for producing merchantable timber, it is developed for commercial recreation, for industry, or for any other use that DNR determines is incompatible with the practice of forestry, or it is developed for a human residence. DNR may order the withdrawal of land that fails to conform to an eligibility requirement and if withdrawn, the owner is subject to the payment of certain withdrawal taxes and fees.
- * This bill exempts an owner who withdraws land from the MFL program from the payment of withdrawal taxes and fees if the owner withdraws the land for the purpose of constructing a human residence and if the land was designated as MFL before October 11, 1997. The bill specifies that the owner must withdraw at least one acre of land but not more than 3 acres of land unless the land is subject to a local

timber

3 tree

zoning ordinance that establishes a minimum acreage for the construction of a human residence. In that case, the owner may withdraw the amount of acreage required under the applicable zoning ordinance even if that amount exceeds 3 acres. The bill specifies that DNR may not order withdrawal of the owner's remaining MFL unless the remaining MFL fails to meet MFL eligibility requirements. *three*

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X
SECTION 1. 77.88 (8) (am) of the statutes is created to read:

77.88 (8) (am) No withdrawal tax or withdrawal fee may be assessed against an owner withdrawing at least one acre of managed forest land if all of the following apply:

1. The land is withdrawn under an order issued by the department upon the request of the owner.

2. The department issued its order under subd. 1 after finding that all of the following conditions were satisfied:

a. The purpose for which the owner requested that the department withdraw the land is to construct a human residence.

b. The land was designated as managed forest land before October 11, 1997.

c. If the land is not subject to a city, village, town, or county zoning ordinance that establishes a minimum acreage for the construction of a human residence, the owner requests that the department withdraw not more than 3 acres of land.

d. e. If the land is subject to a city, village, town, or county zoning ordinance that establishes a minimum acreage for the construction of a human residence that is more than one acre, the owner requests that the department withdraw not more than *Step*

1 the acreage of land required by the applicable zoning ordinance for construction of
2 a human residence.

3 **SECTION 2.** 77.88 (8) (b) of the statutes is amended to read:

4 77.88 (8) (b) The department may not order withdrawal of land remaining after
5 a transfer of ownership is made under par. (a) 1., 2., or 3. ^{plain} after a lease is entered
6 into under par. (a) 3., ^{delete space} or after the department orders withdrawal of land upon the
7 request of an owner under par. (am) unless the remainder fails to meet the eligibility
8 requirements under s. 77.82 (1).

9 **History:** 1985 a. 29; 1991 a. 39; 1993 a. 16, 131; 1995 a. 27; 1999 a. 150 s. 672; 2003 a. 228; 2005 a. 64, 299; 2009 a. 186, 365.

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1676/jdn

RNK:.....

sbb

jld

Date

9 three
* Please note that this draft rather arbitrarily limits the number of acres that an owner may withdraw from the managed forest land program for the purpose of building a residence to 3 acres. This limit applies under the draft if the land is not subject to a local zoning ordinance that establishes a different acreage requirement for the construction of residences, in which case the acreage requirement under the ordinance will apply. Please let me know if this is O.K. or if you would like the draft to impose a different acreage limitation.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1676/1dn
RNK:sbb&jld:md

April 26, 2011

Please note that this draft rather arbitrarily limits the number of acres that an owner may withdraw from the Managed Forest Land Program for the purpose of building a residence to three acres. This limit applies under the draft if the land is not subject to a local zoning ordinance that establishes a different acreage requirement for the construction of residences, in which case the acreage requirement under the ordinance will apply. Please let me know if this is O.K. or if you would like the draft to impose a different acreage limitation.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Godwin, Gigi

From: Gary, Tim

Sent: Friday, October 14, 2011 1:56 PM

To: LRB.Legal

Subject: Draft Review: LRB 11-1676/1 Topic: Exemption for residences on certain MFL lands

Please Jacket LRB 11-1676/1 for the ASSEMBLY.

10/14/2011